



STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007-1866
MAR 19 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hewlett Bay Park Associates LP
PO Box 8627
Albany, NY 12208-0627
Attn: John M. Tanenbaum

Re: Peninsula Boulevard Groundwater Plume Superfund Site, Hewlett, Nassau County, New York: Request for Information Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675

Dear Mr. Tanenbaum:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. §§ 9601-9675 (also known as the "Superfund" law). For your information, a copy of the Superfund law may be found at www.epa.gov/superfund/action/law/index.htm.

As you know, EPA has documented the release and threatened release of hazardous substances into the environment at the Peninsula Boulevard Groundwater Plume Superfund Site (the "Site"), which consists of the area within and around a groundwater plume in Hewlett, New York. The Site includes property managed by your company, Hewlett Bay Park Associates LP. This letter seeks your cooperation in providing information and documents related to the Site. EPA encourages you to give this letter your immediate attention. A complete and truthful response should be provided to the attached Request for Information **within 30** days of your receipt of this letter.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority to require persons to provide information and/or documents relating to the materials generated, treated, stored, disposed at, or transported to a facility; the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant at or from a facility; and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, compliance with the Request for Information is required by law. When you have prepared a response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA authorizes EPA to pursue penalties for failure to comply with a Request for Information.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not be able to withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions that follow this letter, including the requirements for supporting your claim of confidentiality.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by this Request for Information, it is necessary that you promptly supplement your response as described in the Instructions.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501.

See the enclosed Instructions for information on how to respond to the enclosed information requests. Your response to this Request for Information should be mailed and/or electronically sent to:

Gloria M. Sosa
Remedial Project Manager
Western New York Remediation Section
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, Floor 20
New York, New York 10007
sosa.gloria@epa.gov

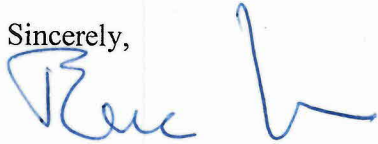
A copy of your reply should be sent to:

Margo Ludmer
Assistant Regional Counsel
New York / Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, Floor 17
New York, New York 10007
ludmer.margo@epa.gov

If you have any questions regarding this Request for Information or the Site, please contact Ms. Sosa at (212) 637-4283. Should you have any legal questions regarding this Site, please direct them to Ms. Ludmer, who may be reached at (212) 637-3187.

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Wilson", with a stylized flourish at the end.

Eric Wilson, Deputy Director for Enforcement and Homeland Security
Emergency and Remedial Response Division

Attachments

cc: Anthony Reitano, Esq.

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

1. A complete and separate response should be given for each question and/or information request. If information or documents responsive to this Request for Information are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Identify each answer with the number of the question and/or information request and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
3. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
5. If you have reason to believe that an individual or entity other than one employed by or known to your company may be able to provide additional details or documentation in response to any question, state that person or entity's name, last known address, phone number, and the reasons for your belief.
6. If you cannot provide a precise answer to a question, please approximate, but in any such instance, state the reason for your inability to be specific.
7. If a document is requested, but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, and number of pages, and identify all recipients of the document with their last known addresses and phone numbers.
8. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.
9. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response to EPA within **15 calendar days** from the date such information or documents became available to you.
10. **Confidential Information:** The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering all or part of the information requested,

pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. § 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim to be confidential, you must separately address the following points:

- a. the portions of the information alleged to be entitled to confidential treatment;
- b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by you to guard against an unintended disclosure of the information to others;
- d. the extent to which the information has been disclosed to others and the precautions taken in connection therewith;
- d. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determination, if available, or a reference to them; and
- f. whether you assert that disclosure of the information would likely result in substantial harmful effects to your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your responses so that all non-confidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, that you intend to continue to do so, and that the information is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by Section 104(e) of CERCLA and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice.

DEFINITIONS

1. The term "Company" or "your Company" shall mean Hewlett Bay Park Associates LP as it is currently named and constituted, including its divisions, branches, officers, managers, employees, contractors, trustees, partners, assigns, or agents, as well as any predecessor and any successor companies.
2. The term "documents" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.
3. The term "industrial waste" shall mean any solid, liquid, or sludge, or any mixture thereof, that possesses any of the following characteristics:
 - a. it contains one or more hazardous substances (at any concentration) as defined in 42 U.S.C. § 9601(14);
 - b. it is a "hazardous waste" as defined in 42 U.S.C. § 6903(5);
 - c. it has a pH less than 2.0 or greater than 12.5;
 - d. it reacts violently when mixed with water;
 - e. it generates toxic gases when mixed with water;
 - f. it easily ignites or explodes;
 - g. it is an industrial waste product;
 - h. it is an industrial treatment plant sludge or supernatant;
 - i. it is an industrial byproduct having some market value;
 - j. it is coolant water or blowdown waste from a coolant system;
 - k. it is a spent product which could be reused after rehabilitation; or
 - l. it is any material which you have reason to believe would be toxic if either ingested, inhaled or placed in contact with your skin.
4. The term "material" or "materials" means any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
5. The term "Piermont Facility" shall mean the facility currently known as Piermont Cleaners, located at 1309 Broadway in Hewlett, New York.
6. The term "Shopping Center Property" shall mean the real property located at 1301-1323 Broadway, Hewlett, New York and including Section 42, Block 044, Lot 18, as depicted on the Nassau County Land and Tax Map.
7. The term "Site" shall mean the Peninsula Boulevard Groundwater Plume Superfund Site, which consists of the area within and around a groundwater plume located in and around the area of Hewlett Parkway and West Broadway in Hewlett, New York.
8. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants,

whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.

9. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or the Resource Conservation and Recovery Act ("RCRA"), in which case the statutory definitions shall apply.

REQUEST FOR INFORMATION

1. Please provide the following information regarding your Company:
 - a. the correct legal name and mailing address;
 - b. the state and date of incorporation;
 - c. the name of your Company's agents for service of process in the state of incorporation and in New York, if different;
 - d. the names and addresses of all current and former partners of your Company, and the nature of each partnership interest; and,
 - e. if your Company is a subsidiary or affiliate of another company, or has subsidiaries, or is a successor to another company, identify these related companies, describe the relationship to your Company, and indicate the date and manner in which each relationship was established.
2. Identify any legal or equitable interests that you now have or previously had in the Shopping Center Property. Describe the nature of such interest; indicate when, how, and from whom such interest was obtained; and provide any documents pertaining to such interest. Please include in your response all documents and information addressing the 1959 "Sale/Lease Back" transaction referenced in the November 22, 2017, letter from David Mairo to EPA (Attachment A).
3. Submit copies of any and all written agreements not already provided in response to Information Request No. 2 that were entered into between your Company and The Lucky Acres Co., as well as any of its predecessor companies.
4. List all known entities that operated at the Piermont Facility, provide the dates of their operation there, and indicate the relationship between that entity and your Company.
5. For each entity listed in response to Information Request No. 4, above, provide any information or documents in your possession, custody, or control, including but not limited to letters, electronic mail, reports, and facsimile, pertaining to the following:

- a. the entity's leasing or subleasing of the Piermont Facility;
 - b. the entity's operations at the Piermont Facility;
 - c. the maintenance, repair, or alteration of the Piermont Facility while the entity was operating there;
 - d. the use, transportation, storage, and/or disposal of chemicals, solvents, and/or industrial waste by the entity or its contractor or agent in connection with the Piermont Facility;
 - e. any actual or suspected leaks, spills, discharges, or other releases by the entity of hazardous substances and/or industrial wastes into the environment at or near the Piermont Facility;
 - f. any inspections, studies, sampling results, or environmental assessments concerning environmental conditions at the Piermont Facility while the entity was operating there; and
 - g. the entity's compliance with environmental laws and regulations.
6. State the names, telephone numbers, and present or last known addresses of all individuals whom you have reason to believe may have knowledge, information, or documents regarding the use, storage, generation, disposal, release, or handling of tetrachloroethylene or trichloroethylene at the Shopping Center Property.
7. Please provide copies of your Company's financial statements, shareholder reports, financial audits, or other financial reports showing its assets, profits, liabilities, and current financial status for the last five years.
8. List and provide a copy of all agreements or contracts, including but not limited to insurance policies and indemnification agreements, held or entered into by your Company or its parent corporation(s), subsidiary, or subsidiaries that could indemnify them against any liability that they may have under CERCLA for releases or threatened releases of hazardous substances at and from the Site. In response to this Request, please provide not only those insurance policies and agreements that currently are in effect, but also those that were in effect during the period(s) when any hazardous substances may have been released or threatened to be released into the environment at or from the Piermont Facility.
9. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein, or who may be able to provide additional information or documents concerning the contamination at the Site, please identify such persons and the additional information or documents that they may have.

10. State the name, title, and address of each individual who assisted or was consulted in the preparation of the response to this Request for Information. In addition, state whether this person has personal knowledge of the information in the answers provided.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this _____

day of _____, 2018.

Notary Public

ATTACHMENT A

November 22, 2017

VIA ELECTRONIC AND CERTIFIED MAIL - RRR

Margo Ludmer, Esq.
Assistant Regional Counsel
Office of Regional Counsel
New York/Caribbean Superfund Branch
US Environmental Protection Agency
290 Broadway, 17th Floor
New York, NY 10007-1866

**Re: Special Notice Pursuant to Section 122(e) of CERCLA for the
Peninsula Boulevard Groundwater Plume Superfund Site
Operable Unit 2
Hewlett, NY**

Dear Ms. Ludmer:

This firm represents The Lucky Acres Co. ("Lucky Acres") and more particularly interests related to its property located at 1301-1321 Broadway, Hewlett, New York (the "Property").

I write in response to the U.S. Environmental Protection Agency's ("EPA's") above-referenced letter dated September 29, 2017 regarding the Special Notice provided pursuant to Section 122(e) of CERCLA. The September 29th letter was received by Lucky Acres on or about October 3, 2017. The letter was also addressed to a tenant, Piermont Dry Cleaners, Inc. ("Piermont Cleaners") that currently operates a dry cleaning establishment at the Property. In addition, Lucky Acres forwarded a copy of the September 29th letter to the entity that has controlled every aspect of the Property's operation and management since at least 1959, Hewlett Bay Park Associates, L.P. ("HBPA").

As I've explained during our various communications, in 1959 the Property was the subject of a "Sale/Lease Back" transaction whereby a predecessor in interest to Lucky Acres purchased the Property from a predecessor in interest to HBPA, who immediately leased it back from Lucky Acres. By operation of the lease, HBPA retained all the responsibilities of an owner and is contractually entrusted with essentially all responsibilities and obligations with respect to the Property. Those obligations include but are not limited to compliance with statutes, ordinances and regulations, selection of tenants and ensuring that adequate insurance is maintained.

Margo Ludmer, Esq.
November 22, 2017
Page 2

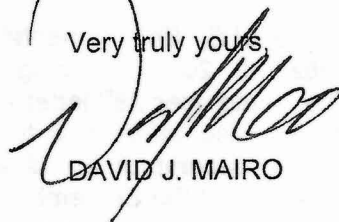
Indeed, during my conversations with you and EPA Project Manager, Ms. Gloria Sosa, the EPA has confirmed multiple communications, discussions and meetings it has had with HBPA and their counsel since issuing the December 28, 2015 EPA Notice letter, as well as throughout the course of the Remedial Investigation/Feasibility Study (designated Operable Unit 2) and selection of the remedy memorialized in the Record of Decision.

Indeed, just last week, Ms. Sosa informed me that she needed to speak with HBPA again regarding access to conduct a vapor intrusion investigation at the Property. As further confirmation of HBPA's role, to my knowledge all communications with Piermont Cleaners have been through HBPA and its counsel. Candidly, I don't think Piermont Cleaners has ever corresponded with Lucky Acres and would not know who to call. That being said, Lucky Acres is actively engaged with HBPA, who in turn is speaking with Piermont Cleaners regarding this matter and there appears to be a genuine desire by all parties to amicably settle.

To that end, Lucky Acres has been trying to schedule a meeting with the EPA at which representatives of both HBPA and Piermont Cleaners have indicated they would attend. We have targeted the latter part of December 2017 and my hope is that the meeting creates the platform for settlement negotiations to commence in earnest. I will be representing Lucky Acres in those negotiations. Presently, as I'm sure the EPA can appreciate, Lucky Acres is not in a position to unilaterally make a 'good faith offer' without HBPA and Piermont Cleaners' participation, which I'm confident the December meeting will provide. If, however, meaningful participation does not appear to be forthcoming from either party, then Lucky Acres will be proactive in protecting its rights which should operate to address the EPA's determinations. Accordingly, to give the parties a realistic opportunity to negotiate terms and conditions of a potential settlement, I respectfully request a 60-day extension to the original 60-day negotiation moratorium outlined in the September 29th letter.

Of course should you have any questions, please do not hesitate to contact me directly.

Very truly yours,



DAVID J. MAIRO

cc: The Lucky Acres Co.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Hewlett Bay Park Associates LP
PO Box 8627
Albany, NY 12208-0627
Attn: John M. Tanenbaum



9590 9402 1702 6053 0743 77

2. Article Number (Transfer from service label)

7017 1070 0000 1674 0896

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

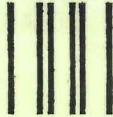
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PS Form 3811, July 2015 PSN 7530-02-000-9053

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Margo Ludmer
Assistant Regional Counsel
N.Y./Caribbean Superfund Branch
Office of Regional Counsel
U.S.Environmental Protection Agency,
Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866